

AMENDED IN SENATE MARCH 23, 2010

SENATE BILL

No. 1180

Introduced by Senator Dutton

February 18, 2010

An act to *amend Section 922 of the Labor Code*, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1180, as amended, Dutton. Right to work: labor organizations.

Under existing law, it is against public policy for an employer and a prospective employee to enter into an agreement whereby either or both of them promise to join, or not to join, or remain a member of, a labor or an employer organization or to withdraw from an employment relation should one party or the other join or remain a member of a labor or employer organization. Existing law also grants state employees the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on matters of employer-employee relations and provides that once an employee organization is recognized as the exclusive representative of an appropriate bargaining unit, it may enter into an agreement with the state employer to provide for organizational security in the form of maintenance of membership or fair share fee deduction.

~~This bill would state the intent of the Legislature to ensure that the right to work in California may not be infringed or restricted based on membership in, affiliation with, or prohibit a person from requiring an employee, as a condition of obtaining or continuing employment, to contribute financial support of to a labor organization, or based on an individual's refusal to join, affiliate with, or financially support, financially or otherwise, a charity or other organization sponsored by,~~

or at the behest of, a labor organization. This bill would permit an employee or potential employee to seek injunctive relief or monetary damages, or both, for violations or threatened violations of these provisions. This bill would exempt employees covered by federal law from these provisions.

Because this bill would create a new crime, or expand the definition of a crime, it would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. This act shall be known and may be cited as the*
2 *“California Right to Work Act of 2010.”*

3 *SEC. 2. Section 922 of the Labor Code is amended to read:*

4 922. ~~Any~~ *(a) For purposes of this section, the following terms*
5 *have the following meanings:*

6 (1) *“Employer” means a person, firm, association or*
7 *corporation, public entity, school, college, university, institution,*
8 *or an education agency.*

9 (2) *“Labor organization” means any organization, agency,*
10 *employee representation committee, or union that exists for the*
11 *purpose, in whole or in part, of dealing with employers concerning*
12 *wages, rates of pay, hours of work, and other conditions of*
13 *employment or forms of compensation.*

14 *(b) Any person or agent or officer thereof who coerces or*
15 *compels any person to enter into an agreement, written or verbal,*
16 ~~*not to join or become a member of any labor organization, do any*~~
17 ~~*of the following, as a condition of securing employment or*~~
18 ~~*continuing in the employment of any such person, is guilty of a*~~
19 ~~*misdemeanor.:*~~

20 (1) *Enter into an agreement, written or verbal, not to join or to*
21 *remain a member of a labor organization.*

1 (2) Pay any dues, fees, or assessments, or other similar charges,
2 however denominated, of any kind or amount to a labor
3 organization.

4 (3) Pay to any charity or other third party, in lieu of the
5 payments described in paragraph (2), an amount equivalent to,
6 or a pro rata portion of, dues, fees, assessments, or other charges
7 required of a member of a labor organization.

8 (c) (1) A person injured as a result of a violation or threatened
9 violation of this section may obtain the following remedies:

10 (A) Injunctive relief against a violator or person threatening a
11 violation.

12 (B) Monetary damages, including costs and reasonable
13 attorney's fees, resulting from a violation or threatened violation.

14 (2) These remedies are independent of and in addition to the
15 penalties and remedies prescribed in other provisions of this
16 chapter.

17 (e) This section does not apply to any of the following:

18 (1) Employers and employees covered by the federal Railway
19 Labor Act (45 U.S.C. Sec. 151 et seq.).

20 (2) Federal employers and employees.

21 (3) Employers and employees on exclusive federal enclaves.

22 (4) Circumstances that would otherwise conflict with, or be
23 preempted by, federal law.

24 (5) An employment contract entered into before the effective
25 date of the act adding this section. However, this chapter applies
26 to any renewal or extension of any existing contract.

27 SEC. 3. The provisions of this section are severable. If any
28 provision of this section or its application is held invalid, that
29 invalidity shall not affect other provisions or applications that can
30 be given effect without the invalid provision or application.

31 SEC. 4. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within
38 the meaning of Section 6 of Article XIII B of the California
39 Constitution.

1 ~~SECTION 1. It is the intent of the Legislature to ensure that~~
2 ~~the right to work in California may not be infringed or restricted~~
3 ~~based on membership in, affiliation with, or financial support of~~
4 ~~a labor organization, or based on an individual's refusal to join,~~
5 ~~affiliate with, or support, financially or otherwise, a labor~~
6 ~~organization.~~

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